

Joint Committee of the Senate and the House of Commons

ON

CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

Joint Chairmen:—The Honourable Senator Salter A. Hayden
and
Mr. Don F. Brown, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 4

TUESDAY, MARCH 1, 1955

WITNESSES

Representing The Canadian Legion (B.E.S.L.): Mr. T. D. Anderson, General Secretary; Mr. Osmond F. Howe, Q.C., Honorary Counsel; Mr. D. M. Thompson, Director of Service Bureau; and Mr. T. Kines, Director of Administration.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
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COMMITTEE MEMBERSHIP

For the Senate (10)

Hon. Walter M. Aseltine	Hon. John A. McDonald
Hon. John W. de B. Farris	Hon. Arthur W. Roebuck
Hon. Muriel McQueen Fergusson	Hon. L. D. Tremblay
Hon. Salter A. Hayden	Hon. Clarence Joseph Veniot
(Joint Chairman)	Hon. Thomas Vien
Hon. Nancy Hodges	

For the House of Commons (17)

Miss Sybil Bennett	Mr. A. R. Lusby
Mr. Maurice Boisvert	Mr. R. W. Mitchell
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Mr. F. T. Fairey	Mr. Ross Thatcher
Hon. Stuart S. Garson	Mr. Phillippe Valois
Mr. C. E. Johnston	Mr. H. E. Winch
Mr. Yves Leduc	

A. Small,
Clerk of the Committee.

ORDERS OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate of Canada:

TUESDAY, 1st March, 1955.

With leave of the Senate, and—


On motion of the Honourable Senator Beaubien, it was—

Ordered that the name of the Honourable Senator Tremblay be substituted for that of the Honourable Senator Bouffard on the Joint Committee on Capital and Corporal Punishment and Lotteries; and

That a Message be sent to the House of Commons to inform that House accordingly.

Attest.

L. C. Moyer,
Clerk of the Senate.



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MINUTES OF PROCEEDINGS

TUESDAY, March 1, 1955.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 11.00 a.m. The Honourable Senator Hayden, Joint Chairman, presided.

Present:

The Senate: The Honourable Senators Aseltine, Farris, Fergusson, Hayden, Hodges, and Veniot—(6).

The House of Commons: Miss Bennett, Messrs. Boisvert, Brown (*Essex West*), Cameron (*High Park*), Fairey, Leduc (*Verdun*), Lusby, Montgomery, Shipley (Mrs.), and Winch—(10).

In attendance:

Representing The Canadian Legion of the B.E.S.L.: Mr. T. D. Anderson, General Secretary; Mr. Osmond F. Howe, Q.C., Honorary Counsel; Mr. D. M. Thompson, Director of Service Bureau; Mr. T. Kines, Director of Administration.

Counsel to the Committee: Mr. D. G. Blair.

Mr. Anderson was called, introduced the delegates, presented and read the brief of The Canadian Legion (copies of which had been distributed in advance) relating to clarification of the Criminal Code to permit, under greater control, lotteries and games of chance conducted by charitable organizations.

Messrs. Anderson and Howe, assisted by the other delegates of The Canadian Legion, were questioned by the Committee on their submissions.

The presiding chairman expressed the Committee's appreciation to the members of The Canadian Legion's delegation for their representations.

The witnesses retired.

At 12.30 p.m., the Committee adjourned to meet again as scheduled.

A. Small,
Clerk of the Committee.

EVIDENCE

TUESDAY, 1st March, 1955.
11 a.m.

The PRESIDING CHAIRMAN (Hon. Mr. Hayden): Ladies and gentlemen. Let the committee come to order. We have with us this morning representatives from the Canadian Legion. Their brief, unfortunately, was distributed only last night, but I have had the opportunity of reading it. Mr. T. D. Anderson is going to make the presentation in the first instance on behalf of the Canadian Legion. He is the general secretary. Will you introduce the other members of your delegation, Mr. Anderson?

Mr. T. D. Anderson, The Canadian Legion, Dominion Command, called:

The WITNESS: Mr. Chairman and members of the committee, I would like to express our thanks and appreciation for this opportunity to appear before you. We hope what we have to say will be helpful to you and we shall be glad to try to answer any questions which may be directed to us, or to be of any further assistance. I think first of all I should like to introduce the members of the group representing the Legion. On my right is:

Mr. O. F. Howe, Q.C., honorary solicitor for the Dominion Command of the Legion, who will be prepared to answer questions on any legal angles arising from our statement.

The two gentlemen over near the window are:

Mr. T. A. Kines, my executive assistant and,

Mr. D. M. Thompson who is in charge of our service bureau at Dominion Command.

Now, ladies and gentlemen, I would like to draw your attention to one error in the brief. The sentence at the bottom of page two, the second last paragraph, should read: "When it was considered desirable to provide for" instead of "prevent". The meaning of the sentence reads, unfortunately, as the exact opposite of what we wanted it to mean.

Mr. WINCH: You have killed one of my questions.

The WITNESS: Shall I read the brief, Mr. Chairman? What is the procedure?

The PRESIDING CHAIRMAN: We have a procedure which we follow. We shall have a question period after you have read the brief.

The WITNESS: Mr. Chairman and members of the joint committee:

Successive dominion conventions of the Canadian Legion have since May 1946 adopted resolutions asking that charitable organizations in Canada be permitted to conduct lotteries and games of chance under strict government supervision. At least one of these resolutions suggested that this type of fund-raising activity might well be controlled through the issue of permits such as were issued under the War Charities Act which was in effect during and for a time following World War II.

The latest resolution reference the subject adopted by our 15th dominion convention in Toronto last August reaffirmed a resolution adopted at Winnipeg in 1950 and reads as follows:—

15. Lotteries: Resolutions were given to your committee requesting a change in the Criminal Code of Canada permitting the operation of lotteries and games of chance by bona fide welfare and charitable organizations.

It is believed that while the Code provides for certain procedure to be adopted in preventing infractions of the law, there is great difficulty in the enforcement of the regulations throughout Canada.

Believing that the time is more than past when we should present a practical and objective front to this problem, your committee recommends that the federal government of Canada be asked to amend the Criminal Code, section 236—I believe that section has now been changed—to permit the operation of lotteries and games of chance under proper and efficient government control, by any bona fide chartered organization engaged in community or welfare activities.

Although the resolution does not go into detail regarding procedure we would like at this time to offer a few suggestions.

Our branches wish to abide by the law and our Provincial Commands and the Dominion Command are prepared to do everything possible to see that they do. It is with this in mind that we suggest a clarification of the laws governing lotteries and games of chance and more rigid control of their operation. The chief objections to the existing legislation then are:

1. It is not entirely clear.
2. Because it is not clear it is difficult to enforce.
3. Because of the variety of interpretations which can be placed upon this legislation, what is considered legal in one section of the country may well be considered illegal in another.

During World War II when it was considered desirable to provide for the raising of funds for charitable purposes the War Charities Act was introduced.

The following are some of the most important provisions contained in this Act—

3. (1) It shall be an offence under this Act,
 - (a) directly or indirectly to solicit or make any appeal to the public for donations or subscriptions in money or in kind for any War Charity Fund, or to raise or attempt to raise money for any War Charity Fund by promoting or conducting any bazaar, sale, entertainment, or exhibition, or by soliciting for advertising or by any other means, unless the War Charity Fund is registered under this Act;
 - (b) to make or attempt to make any collection for any War Charity Fund unless with the authorization in writing of the officer duly designated in accordance with paragraph (d) of subsection two of section four of this Act to authorize collections for such War Charity Fund;
- (2) The minister shall keep a register of all War Charities Funds registered under this Act in which shall be entered:—
4. (1) The minister, on application of any person, association or institution, under whose auspices it is proposed to raise a War Charities Fund, may grant registration thereof under his being satisfied:—
 - (a) that adequate provision has been made for its establishment and control in accordance with such regulations as may be made from time to time under the authority of section eight of this Act;

- (b) that there is reason to believe that its specific purpose is not already satisfied;
 - (c) that the application for registration is made in good faith;
 - (2) The minister shall keep a register of all War Charities Funds registered under this Act in which shall be entered:—
 - (a) the name of the War Charity Fund;
 - (b) the date of registration and of the termination thereof;
 - (c) the name of the person, association or institute under whose auspices the War Charity Fund is to be raised;
 - (d) the name of an officer or officers by whom alone authorization may be given in writing to persons or organizations to solicit or make collections for such War Charity Fund for the purposes of paragraph (b) of subsection one of section three of this Act;
 - (3) The minister shall issue a certificate of registration of every War Charity Fund registered under this Act.
 - (4) No fee shall be payable upon application for registration of a War Charity Fund or upon the issue of a certificate of such registration.
- “5. Every War Charity Fund registered under this Act shall comply with the following conditions:—

- (a) It shall be administered by a committee or other body consisting of not less than three persons, the nomination of which shall be subject to the approval of the minister;
- (b) Minutes shall be kept of each meeting of such committee or other body in which shall be recorded the names of the members thereof attending such meeting;
- (c) Proper books of accounts shall be kept, and such accounts shall include the total receipts and the total expenditure of any collection, bazaar, sale, entertainment or exhibition held with the approval of the governing body of the War Charity Fund, and the accounts shall be audited at such intervals as may be prescribed by regulations under this Act by some person or persons approved by the minister, and copies of the accounts so audited shall be sent to the minister;
- (d) All moneys received by the War Charity Fund shall be paid into a separate account at such bank or banks as may be specified as respects the War Charity Fund in the register;
- (e) Such particulars with regard to accounts and other records as the minister may require, shall be furnished to the minister, and the books and accounts of the War Charity Fund shall be open to inspection at any time by any person duly authorized by the minister.”

“8. The minister may make regulations:—

- (a) prescribing the forms for applications under this Act and the particulars to be contained therein;
- (b) prescribing the form of the registers to be kept under this Act;
- (c) providing for the inspection of registers and lists kept under this Act, and the making and furnishing and certification of copies thereof and extracts therefrom;
- (d) prescribing forms and particulars for returns to the minister and periods covered by such returns;
- (e) requiring notification to the minister of any changes requiring alterations in the particulars entered in the register;
- (f) generally for carrying this Act into effect.”

It is considered that similar legislation might well be adopted for the control of lotteries conducted by charitable organizations for the purpose of

raising money in order to carry on welfare work. For example, the branches and commands of the Canadian Legion provide a service to veterans and their dependents by assisting them to obtain those benefits such as pensions, etc., to which they are properly entitled. We have learned by long experience that many find it impossible to establish just and proper claims without expert assistance. Such expert assistance is provided by the appointment of service officers at branch level and service bureaux at command levels. Heavy expense is involved in the provision of such a service. Direct emergency relief in the form of cash grants, transportation, grocery orders, etc., is also provided where such assistance is available from no other source.

A Saturday night bingo game could be an extremely popular pastime in our clubrooms across Canada. Properly controlled it would cost no individual member more than a few cents each week, and it might well provide a source of income from which some of the cost of the services to veterans and dependents mentioned above would be offset. It could also constitute real entertainment for a husband and wife in the company of their legion comrades.

Only a limited number of our Provincial Commands ever have attempted to raise money through lotteries or games of chance and then rarely and with some misgivings. Dominion Command has never sought to raise funds in this way. We feel, however, that our branches might well be permitted to operate lotteries and games of chance under proper legal control.

We would suggest that the value of the prizes for such games should be strictly limited. Experience seems to indicate that the monster bingo for example, eventually tends to defeat its own purpose, namely, the raising of funds for charitable purposes. When organizations compete on a large scale the value of the prizes tends to steadily increase because the crowds will naturally attend those games offering the most for the money. As a result the money spent on prizes tends to increase and the amount left for charitable work naturally decreases. If a reasonable limit on the value of prizes were set and rigidly enforced this element of adverse competition would not arise. There is also much less likelihood of the racketeer or professional promoter gaining control if the value of the prizes is limited.

Organizations operating such lotteries or games of chance should be required to state, on applying for a permit, the purpose for which the funds so raised are to be used. Furthermore, they should be required to give a strict accounting to the controlling authorities regarding the manner in which such funds are expended. Failure to comply with such regulations should result in the withholding of future permits.

Controlling legislation should be clear and concise in order to avoid the possibility that local controlling authorities might succumb to pressure groups and grant permits to improper persons or groups.

Experience has shown that it is not possible to prohibit the use of alcoholic beverages and it would seem that it is equally impossible to prohibit games of chance as a form of moderate entertainment. The sale and use of alcoholic beverages is at present controlled by legislation. We submit that the same sort of control could and should be applied to games of chance where such games are organized and conducted by reputable organizations for charitable purposes.

All evidence seems to indicate that the majority of the people of Canada would not tolerate the operation of uncontrolled gambling. There does, however, appear to be a fair measure of public support in favour of the idea that reputable charitable organizations might be permitted to conduct games of chance when the proceeds go to benefit some worthy cause. Under the circumstances the operation of such games of chance by charitable organizations, under strict control, would seem to be a step in the desired direction.

Might we suggest that the legislation governing games of chance presently in effect in the state of New Jersey be examined by this committee.

The PRESIDING CHAIRMAN: Now, this is the only brief to be presented, therefore we may proceed with our questions. Are there any other members of your group who are likely to be answering questions?

Mr. ANDERSON: There may be some which Mr. Howe or Mr. Kines will answer.

The PRESIDING CHAIRMAN: Will all of you come up here please? We will have a panel of experts.

By Hon. Mr. Aseltine:

Q. The only question I have to ask is as to the nature and extent of the laws of New Jersey. Can any member of the Legion present tell us anything about these laws?—A. No sir. I am afraid we cannot give you any information on that. Our information comes largely from an article which appears in the latest issue of the *Reader's Digest*. Apparently the state of New Jersey has recently introduced legislation legalizing lotteries under statutory control and the system appears to be working satisfactorily at the present time.

Mr. MONTGOMERY: I have only a few questions, Mr. Chairman. On page 2 you recommend that the government be asked to amend the Criminal Code to secure more rigid control of lotteries and games of chance. But the inference in the brief here is that you wish the law relaxed. Is that the proper inference? You say the law does not make itself clear. Do you think the law on lotteries today is too severe?

Mr. HOWE: I should like to begin by making an introductory remark or two. First of all the Canadian Legion has a set-up rather different from other organizations in this country in that we are organized not under the Companies Act of the dominion or of any province, but by special Act of the Dominion Parliament and supplementary legislation in some of the provinces. Under the terms of our Act each part of the Legion is an entity. We are made up of several entities with controlling features. Each branch is in itself an entity in certain respects; it runs its own show having regard to the by-laws regulating the whole, and of course the Act. But it may hold property, contract, sue and be sued. We have to keep control and we do in the Dominion Command, and through the various provincial commands and then through the various branches, but at the same time we must listen to the opinions of those branches. The Canadian Legion, obviously, is made up of ex-service personnel, men and women, and is devoted to looking after their affairs and the affairs of their dependents. We are made up of all kinds of people. This is not a church men's association or something of that kind. We are as interested in the "rubbydub" and in the whole mass of veterans as we are in any particular group. Having said that, Mr. Chairman, you will realize that we have to put forward the views of all of these people. I have no doubt we have many members who would look askance at any form of gambling, gambling whether licensed or unlicensed, though perhaps gambling is not the proper word. We shudder at it. We have all these various lotteries and games of chance—something milder. But taking it all in all we have to work for the general benefit of the people we represent, and the mass of the people we represent, as indicated by the opinions expressed at the dominion convention, want some change in the situation, or at least they want it clarified. The present situation of the section is as we all know very unsatisfactory. I smiled a little when Mr. Anderson said we wanted to remain within the law. The chief question which arises today is: "What is the law?" Nobody knows.

What the Canadian Legion wants is that this thing should be kept under proper control. We do not want any wide-open gambling proposition. We do not want the present situation relaxed because, as I have indicated, I think we can do a lot under the present section 236. The chief need is for clarification.

Mr. MONTGOMERY: In other words, you would have the law so devised that each branch would know exactly what it was doing?

Mr. HOWE: Exactly.

Mr. MONTGOMERY: Is it not largely a matter for the local magistrates?

Mr. HOWE: Except when some stubborn fellow like myself takes a case to the court of appeal.

By Mr. Montgomery:

Q. Mr. Anderson, you mentioned that there should be a limit put on prizes. Have you any suggestion as to the sort of limit? Would it depend upon the size of the bingo game which, I presume, you more or less have in mind?—A. That is the idea, that the prizes be strictly limited.

Q. What limit would you suggest?—A. I think it would depend to some extent on the circumstances under which the game of chance was being conducted. The chief objection to the value of the prizes not being limited is that the cost of the prizes eventually reaches the point where nothing is left for the welfare work which the game is intended to benefit.

Q. It becomes commercialized?—A. Yes.

Q. I see the brief does not touch on the question of capital punishment or corporal punishment, though we have the responsibility to consider those matters. Have you any remarks to make on capital punishment? Have the Legion considered whether we should retain capital punishment or whether it should be abolished or reformed?—A. We have nothing on that. We are acting on a mandate from the dominion convention in presenting the present brief to you, but we have nothing from our convention which relates to capital punishment.

Miss BENNETT: You indicate that the Legion is satisfied to a certain extent with the scope of the War Charities Act if this were clarified to meet the situation across the country.

The WITNESS: Yes.

Mrs. SHIPLEY: It is obvious that any change in that law, or at least it appears so to me, should provide for some limit to the number of bingo games or lotteries which anyone should be able to operate within a given period. Have you any suggestion on that?

The WITNESS: I do not think we want to make any specific suggestion. We do touch briefly on that matter when we refer to "Saturday night bingo" which means once a week, but I am not sure that we had that in mind. I do agree that some limitation should be placed upon the frequency of games — I do not think it would be good business to promote a bingo game every night. The very fact that we suggest a permit would in itself be a limiting factor.

Mr. HOWE: If I may interject, I would suggest that rather than incorporate in statute form any specific number of occasions, which would be automatic and would be taken advantage of by different organizations, the question might better be left to be regulated by the administrative body. Let me refer briefly here to the work of the Lions Club. In Ottawa the work done by the Lions Club through the moneys raised by bingo games has been amazing. The cobalt bomb which they provided for the Civic Hospital at a cost of between \$90,000 and \$100,000 is only one example of the many things they have done — a project which may require so many bingo games, or fewer or more. I think there is a danger in making this business too rigid instead of leaving something for the judgment and good sense of the administrative body. Mr. Kines has just mentioned to me that with respect to the control of alcoholic beverages banquet permits are granted in Ontario, and I think that

system is not too rigid, but nevertheless if any organization "came back" too often, or it was felt the situation was being abused the authorities could go after them.

Mrs. SHIPLEY: Is it your suggestion, then, that in the interest of the Legion the organizations might have to apply for a permit in respect of every Saturday night on which they intended to hold a bingo game?

Mr. HOWE: It would not make good sense. We have 2,200 branches. We could keep your administrative body fairly busy. But I think if the application were made in fairly general terms and the matter were then left to the administrative body with power to cancel or rescind, no great difficulty would be presented.

The WITNESS: Yes. I think it is important that the frequency of these games and the use made of the funds so raised should be reported at regular intervals, and then if there is any indication of any breach of the regulations, they ought to be denied future permits.

Hon. Mrs. FERGUSSON: I would like to ask if you remember who was the minister who dealt with the War Charities Act? Was it under the Minister of Finance?

Mr. ANDERSON: No, it was under the Department of National War Services, I believe.

By Hon. Mrs. Fergusson:

Q. You must have had experience under that Act. Do you know if it worked satisfactorily?—A. I believed it worked very satisfactorily. The only experience we had with it was in connection with the raising of funds for the construction of Legion branch buildings. In the latter stages of the war and for a number of years following the war this Act was still in effect and it required that any fund-raising activities had to be registered, as you know, so that none of our branches could seek to raise money for the construction of buildings without applying for a permit under that Act. We had experience with it in that respect and so far as I can recall it was highly satisfactory.

Q. I had in mind that it would take quite a number of people to administer that Act. If a similar provision were set up now do you think it would be worth the cost to the citizens of Canada to create such a large department for the purpose of legalizing lotteries?—A. I cannot say, senator, that we are in a very good position to tell just what the administration of this type of legislation might cost. I am sure the Legion did not visualize a special department being set up to deal with this type of legislation. I think the idea was, generally, that it would be controlled by authorities which exist at the present time.

Q. But you would have to add additional employees. I take it for granted that the employees we have now have all the work they can do at the present time. If you are going to add additional work it will mean additional staff, whether it falls within an existing department or whether another department is to be created.

Mr. HOWE: Perhaps a small filing fee might answer that point, but I think myself it might be a matter for the administration to decide.

Mr. FAIREY: If there is to be an amendment of the Criminal Code, the administration is in the hands of the province.

Hon. Mrs. FERGUSSON: It would be paid for by the citizens whether it is done by city, or the province, or the federal government.

The PRESIDING CHAIRMAN: I think the point raised is pertinent to our inquiry. We would not want to recommend a particular course which would involve the expenditure of money without — —

Mr. KINES: I do not think, Mr. Chairman, there would be any objection to a fee. We have got a permit here, and permits usually carry with them a fee. If this were to be conducted on a small scale and on a widespread basis this small fee for a permit might amount to a considerable revenue.

Mr. BROWN (*Essex West*): But that would not take care of the expenses which might be incurred, no matter how large the fee might be.

The PRESIDING CHAIRMAN: If we think the principle is sound we might find a way of dealing with it without running into too much money.

The WITNESS: Might I say I have a feeling that some adequate control of these lotteries and games of chance will have to be brought into effect in any case, and I think the very fact that there is a committee sitting here today is significant and indicates that something has to be done about it. Is it not a fact that regardless of what type of control is introduced it is going to cost money to make that control effective, whether it is done by one means or by another. The idea is that these games of chance should be controlled, and there is going to be expense involved.

Mr. FAIREY: Mr. Anderson, I take it that all your organization is interested in is what might be called the smaller lotteries. You are not interested in the national lotteries such as the army and navy sweepstake, or, let us say, the Irish sweepstake. What do you suggest we do about such national lotteries as that?

The WITNESS: We have for many years registered our objection, perhaps not publicly, but within our own organization to the conduct of national lotteries. We had the experience at one time of being asked to support a drive for national lotteries and we turned it down very coldly and I am quite convinced that the attitude of the Canadian Legion towards national lotteries and foreign lotteries has not changed.

Mr. BROWN (*Essex West*): You mean sweepstakes?

The WITNESS: That is right.

Mr. WINCH: I see that all the questions which I had in mind have been asked except one. This brief deals practically wholly and solely with the game of chance or gambling known as bingo, which in the last analysis is actually gambling. I have been a member of the Canadian Legion and also of the "Army and Navy" for a great many years and in the clubs to which I belong and the clubs which I visit there is more than bingo. There is poker and black-jack and whist or bridge, all for money on the table, but there is no mention of these matters in your brief. Am I correct in taking it that you also wish that there should be proper clarification of the law and protection of the Canadian Legion in this regard, so that they will be able to carry on this form of gambling as well as bingo, and if so do you feel that there should be any limitations on that; also, if you feel that way, do you recommend that there should be any provision as to whether there should be a regular fee or charge per game? There is no mention in the brief of these matters.

The PRESIDING CHAIRMAN: There are rather a lot of questions involved in that, but Mr. Anderson will take a run at answering them.

The WITNESS: I should like to make this statement. The Canadian Legion is a club, and in some respects, and with regard to the facilities which it offers to its members, it is much like any other club. I belong to one or two clubs, and I do not know any of them which do not have a poker table in one room and other games of chance going on. Whether or not that is a good thing or a bad thing, I am not prepared to say. It is done, in most cases—practically all cases—where there are clubs. However, we do feel that this is a matter which may be left to the members themselves. It does not involve other people. It involves only members of the club. On the other hand, the

bingo game or the lottery does affect the people of the community in general. That is where we feel control is essential. It may be that control of the small poker game in a clubroom is necessary. I do not know. But certainly where a game gets beyond the scope of the individual club members and involves the general public, we are suggesting there should be more rigid supervision. I do not know whether I have answered all the member's questions. If not, I will try to do a little better should there be anything which I have not clarified.

Mr. HOWE: We have branches which are permitted and licensed to sell beer. We have other branches which will have nothing to do with it. There is a branch in Ottawa which will have nothing to do with the selling of beer. It is a matter for the particular branch to decide.

The WITNESS: As a matter of fact—I would like to state this for the record—less than 20 per cent of our branches do sell beer.

Mr. FAIREY: You mean in the club, or to take out?

The WITNESS: In the club. In any form whatever.

The PRESIDING CHAIRMAN: That question is not on our agenda. Any other questions, Mr. Winch?

Mr. WINCH: Yes. I should like a little additional clarification of that point. I am not objecting, but the majority of clubs do have their card rooms. Does the witness think there is any need for clarification in the Act to make sure they have that right? Do you see any need, Mr. Anderson, for protective measures if the games got too high, which they occasionally do?

The WITNESS: I should like Mr. Howe to comment on that. He has probably had more experience than I have.

Mr. HOWE: On that point, Mr. Chairman, do you not think it would be almost impossible to draft laws?

The PRESIDING CHAIRMAN: I do think that Mr. Howe would want to know what type of poker game is meant—whether it was a game in which only members were taking part, and so on. Certainly I do not know any law which would prevent members from having a game of poker.

Mr. HOWE: I do not think we want any higher privileges than any other club. On that point you could go into almost any club or place in the city where citizens are gathered for a little entertainment and see these things going on; it depends on the pocketbook or on the individual as to what it costs. I do not think that with regard to gambling itself, except in relation to the matters Mr. Anderson mentioned, that we want any broad change. I rather admired the way in which Mr. Anderson dealt with Mr. Winch's questions, because the subject was a little difficult. This is not a matter of moral, but a matter for a little judgment and sound sense. We feel we should be given the same privileges as an agricultural society, for the improvement of the breed, or whatever it is, because we are dealing with a particular class of people who have put a value on their citizenship by what they have done.

Hon. Mrs. HODGES: I would like to ask Mr. Howe a question on the paragraph which appears on page 2 of the brief which states the chief objections to the existing legislation are, among other things, that:

Because of the variety of interpretations which can be placed upon this legislation, what is considered legal in one section of the country may well be considered illegal in another.

Is it your opinion that any legislation could be formulated which would ensure unanimity and enforcement in all provinces?

Mr. HOWE: Yes, this is possible almost all the time, with regard to almost every other section of the Code the opinions expressed in other courts in the

province are read with respect and are quoted and studied, and while they are not binding on the courts of other provinces, unless they come from the Supreme Court here, they have a considerable influence on decisions. But this particular section is in such a mess that we find magistrates regularly overruling decisions made in the appeal courts of the various provinces. I have had some experience in this regard which Mr. Blair might like to ask me about later. But I think you can define this legislation, and I think that probably is the purpose of your committee being here.

Hon. Mrs. HODGES: I was interested because I have been in various provinces where the Attorneys General interpreted the same law—which seems, to a layman, perfectly clear—in different ways.

Mr. HOWE: Yes, I saw with some amazement that the attorney general for one of the provinces had given this committee an opinion with regard to agricultural fairs which bears out that statement. I appeared some years ago for the Ottawa exhibition in a case brought against one of their agents. My client was convicted in Ottawa, but the Court of Appeal of Ontario quashed the conviction and took a very different view from the position which, I read, was taken by the attorney general of one of the western provinces.

Mr. BOISVERT: To suit the purpose of your recommendation, what definition is to be given to the words "games of chance."

The WITNESS: That is a very good question, sir.

The PRESIDING CHAIRMAN: I do not think they need any definition, do they? All he is suggesting is some exception.

The WITNESS: Yes.

Mr. HOWE: I could not define "occasional" either.

The WITNESS: The minute you try to define these things you are in difficulty.

The PRESIDING CHAIRMAN: The easy way, I think, would be not to define it, but to make an exception of the particular thing you have in mind.

By Mr. Brown (Essex West):

Q. Mr. Anderson, I should like to know something about the operation of these Saturday night bingo games which you refer to. I do not think we have them down our way. Saturday night is needed for other purposes. Are they put on solely by the members of your various branches? Are they operated solely by the membership; is that correct?—A. Yes sir, that is correct.

Q. Do you hire anyone to your knowledge?—A. I do say this: so far as the small bingo game within the branch itself is concerned, for the members, that is operated directly by people who are members of the branch for the benefit of the branch. There are no professional promoters employed in such cases. I can think of one example where a branch is operating a bingo game outside of their own premises, a very large bingo game where they employ a clerk to look after the accounts and statements and so on, but so far as the actual conduct of the game itself is concerned, it is all done on a strictly voluntary basis and only members of the branch take part.

Q. Do you approve the hiring of clerks and promoters generally for the conduct of bingo games?—A. I do state quite categorically, sir, that we do not favour the idea of promoters being employed though I think it would not be out of the way to employ someone like a clerk or bookkeeper to keep records, look after receipts and expenditures and so on, but the actual promotion and operation of the bingo game itself should be done on a strictly voluntary basis by the members who have to raise the funds.

Q. You say you do not advocate or encourage the use of promoters at any time for bingo games. Are there any other activities, for example the sale of a car, or the "drawing" for a car for which you would engage a promoter?—A. No sir.

Q. The members of the Legion themselves actually do the physical work of selling the tickets?—A. To the best of my knowledge that is correct.

Q. Do you advocate the use of promoters in such circumstances? You have to have certain funds which you raise by these means. What are these moneys derived from bingos usually used for?—A. I can only speak from first hand experience of one branch, and that as you know is our Montgomery branch here. They have done such things as equip and furnish rooms in sanatoria, hospitals and so on.

Q. In other words it is all for charitable work, and not used by the Legion itself. It is for charitable work on behalf of the Legion?—A. That is right.

Q. I suppose you would use it for some necessary equipment or something in the Legion—would that not be reasonable?—A. That is right. I know of one or two instances in which a branch has raised funds to assist in purchasing the building in which they are to operate.

Q. But generally speaking the operation of the branch of the Legion would not be maintained by the conduct of a bingo game, or lottery?—A. No sir. That is not the primary purpose at all.

Q. Now in many branches you have the sale of beer which would help to defray the expenses of the branch would it not, though there are a great many branches which, as you say, do not have a beer license or sell beer. How do the latter operate, then, as a club? Are they maintained by the members themselves?—A. That is right. Each member must pay annual branch dues.

Q. You have already stated that you are not in favour of "wide open gambling" and you are not in favour of national lotteries. Why are you not in favour of national lotteries?—A. We are not in favour of national lotteries to a large extent for the same reason that we do not favour the very large scale bingo games or other games of chance. I think perhaps the chief objection is that this is the sort of thing which eventually comes under the control of racketeers and professional promoters.

Q. You do not think then that you should encourage the philosophy among the Canadian people that they are going to get something for nothing?—A. Right sir.

Q. And you have said you are not in favour of national sweepstakes?—A. That is right sir.

Q. Well, the representation is that national sweepstakes help the hospitals, for instance, and provide many necessary services which are needed by the people. Why then would you not advocate national lotteries?—A. The problem with that, I think, generally, is that the large sweepstakes are the sort of thing which racketeers and professional promoters are liable to get mixed up with, and they are perhaps more difficult to control than the smaller ones, but actually what we are chiefly interested in at the moment is the implementation of the mandate from the dominion conference with regard to the smaller lottery. We have no instructions from our convention with regard to a national lottery conducted by the government or along lines such as that. There is very little likelihood that we should on our own undertake a national lottery. We do not approve of that sort of thing. I am satisfied that we would not be in favour of it, but we have nothing specific on that point.

The PRESIDING CHAIRMAN: Do I understand that you favour lotteries with regulations? What you are in effect saying is that if you have any views, they

are against the larger lotteries, because racketeers may come in. Therefore you must be conceding that you could not regulate the larger ones.

The WITNESS: They would be much more difficult to regulate.

By Mr. Brown (Essex West):

Q. You are more interested in the small lotteries as a means of amusement and entertainment?—A. That is about it, although I would not like to put it on a percentage basis. It is a combination of the two; it is entertainment and it is a source of funds from which to carry on our welfare work. People will pay for that sort of thing, as we know. And if you can do it under proper administration and control, it is much better than if it is done under circumstances where people might lose their shirts.

Q. Suppose some people get into these bingos. Is there any way by which they might, as you say, lose their shirts, or make expenditures which are far beyond their means?

The PRESIDING CHAIRMAN: I do not think that is possible.

The WITNESS: I would not say so, sir.

Mr. KINES: Not if you restrict the price. If you keep the lid down there, you keep the price down.

The PRESIDING CHAIRMAN: There are only so many large games that you can have during the evening, because time is the factor there; and if you charge too high a price for the games, then the people will not buy them.

Mr. BROWN (*Essex West*): I have seen women playing bingo who will have a dozen cards before them. That is not unusual is it? They will probably play five nights a week.

Hon. Mrs. HODGES: Well, Mr. Chairman what about the men who play poker for five nights a week?

The PRESIDING CHAIRMAN: The men can only use five cards at a time.

Hon. Mrs. HODGES: It is surprising what they can do with them; they can lose more than their shirts.

Mr. BROWN (*Essex West*): I have seen them playing with twelve or fifteen cards.

The PRESIDING CHAIRMAN: Women are geniuses at that sort of thing.

Mr. BROWN (*Essex West*): Obviously.

Hon. Mrs. HODGES: I have seen men do phenomenal things with cards too.

Mr. BROWN (*Essex West*): You have been watching television too often.

Hon. Mrs. HODGES: Oh, no.

By Mr. Brown (Essex West):

Q. I gathered that the size of the prize should be strictly limited. What would you say to the limit, be it merchandise or dollars or what?—A. I would have a specified limit on the value of the prize.

Q. Let us say that the prize would be merchandise or money?—A. I do not know that I would be prepared to make any hard and fast statement regarding that. There is a danger that if money is used, the amounts are apt to increase to a point where it might become a menace.

The PRESIDING CHAIRMAN: Not if you have a limit.

By Mr. Brown (Essex West):

Q. If you have a limit, you would not be able to offer, let us say, a motor car as a prize.—A. You will recall that in the discussion a little further back—I do not recall exactly what was said—but I believe it was suggested

that the size of the prize should be contingent upon the area and the circumstances to some extent; but that the chief objection to the larger prize or to the effect of no limitation being placed on the value of the prize is that you get competition between large groups, and the value of the prizes tend to increase in order to attract patronage.

Q. If we are to make an amendment to a federal statute we could not say that there would be a limit, let us say, of \$50 in one area and a limit of \$100 in another area. It would have to be restricted and to affect all people in Canada equally. I do not see how you could legislate on one class of people in such a case and not have it affect all classes of people. You have got to legislate fairly all over the country. In other words, we must have a national viewpoint. So that, generally I take it you do not advocate larger prizes. You think it is something just for amusement or entertainment?—A. Yes, sir. As I say, we speak chiefly for small bingo games or small lotteries in each individual branch.

Q. You would not consider or at least you do not advocate the hiring of promoters who would derive most of the profits from any lottery?—A. No, sir.

Mr. KINES: I think that the particular set-up of our organization is responsible for the thinking of this in terms of size. Our by-laws state that branches may only raise money within specific areas, and that their operation must not infringe on any other area no matter how they raise it; and the same thing applies to our provincial and district organizations; they are strictly limited by area. But perhaps that it not so true with other organizations; and so there is a specific problem there which would have to be worked out for this thing in terms of size.

By the Presiding Chairman:

Q. If you are interested and you think that the welfare of the Canadian Legion and its various branches would be best served by conducting lotteries for small prizes, could you not do your own regulating?—A. I am not sure that I quite understand what you mean. Do you mean that it could be done from the national headquarters?

Q. The branches could impose that regulation as a matter of policy, and that a bingo of some kind may be conducted or sponsored at those branches only where the prizes are of a limited amount in value?—A. Yes, I would think so.

Q. We would not need to write the law in terms of dollars, because there may be others who might want to have variations of it, and you could control your organization, and you can have your own regulations.

Mr. WINCH: Let us consider Vancouver. We have numerous army and navy and Canadian legions there which run bingos. If the Canadian Legion should say: you cannot have a bingo game over \$25, while seven blocks away there is a man who has a social club and who gives prizes of \$200 for bingo, you would lose all this trade over to the outside bingo game. I presume that would be a difficulty you would be up against.

The WITNESS: Yes, that would constitute a difficulty.

Mr. HOWE: You could still have something in the controls of your organization or the provincial or dominion command, which would have regard to circumstances in a particular area. But may I interject something? Our mandate from our dominion convention is not as tight as the brief would indicate. If you will look back of the convention resolution which is in the brief, we are not directed to confine ourselves to bingos and that kind of thing. It is considerably wider than that. Personally I have the thought in my own mind—because during a period of years it has come up—that we should be in no worse position than agricultural fairs, for example. But if it should be decided to raise more money than some small amount for a charity or for a branch

charity, or if we want to put up a branch building to serve veterans and their dependants, we should be able to have a raffle. It might be for an automobile or a house. Those things have taken place. And then we come back to the point of constitutional control to keep the thing within reason. But I do not think we should close the door.

Mr. BROWN (*Essex West*): Would you hire promoters to do that?

Mr. HOWE: Oh, no. Our organization like service clubs—we too are a service club—has as its ideas to keep the members interested, and not to infringe upon or share the profits of some other organization. There is nothing more calculated to get an organization into disrepute than the practice of hiring a promoter who will call people on the telephone and ring door-bells and generally make a first-class nuisance of himself. And the Legion has taken the position that it will have no part in it. So I can say in general that our organization is not in favour of it. We might have a burned-out veteran who is allowed to have a certain measure of assistance over and above the allowance which comes from the government. Perhaps he is going around in a car, if we are raffling a car in a branch; or perhaps he will have a car parked somewhere, if local regulations permit. He may sell tickets for it and perhaps get a small allowance, a couple of dollars a day or something, whatever he would be allowed under the burned-out veterans' regulations, or something of that kind. But you would not call a fellow like that a promoter. He is just carrying out minor functions and making a few dollars to help himself out. That is all.

By Mr. Montgomery:

Q. I gather that the idea from this brief is that you feel that the size or the limit of the prize might be regulated; and that the veterans in each application, if they should seek it, and if the Legion wanted them to have it, could set up a registrar or a judge or whoever grants the permits as to the size, and the possible size and limit of the prizes depending on the application. Is that the idea?—A. Yes, that is what we have in mind when we suggest that it would depend on the circumstances and conditions.

Q. In other words, whether or not we write into the law any limit, the limit would depend upon the discretion of those who granted the permission or the permit under the regulations?

The PRESIDING CHAIRMAN: Yes.

The WITNESS: Much of the control would have to be provided by regulation.

Mr. KINES: Within our own organization, we have had to clamp down on one individual branch which wanted to run a nation-wide raffle and wanted to have lists of branches and other things in the Legion in order to circulate it throughout the whole country, but we did not permit it.

The WITNESS: It is not too difficult to forestall because the minute these lottery tickets appear in a certain area, we very quickly get correspondence from the local branch in that area which says: this branch is encroaching upon our territory; stop them quick.

By Mr. Blair:

Q. As I understand it, the Legion recommends a major change in emphasis in the control of lotteries, recommending that they be licensed instead of governed by the courts administering the general law. Whom does the delegation think should issue such licenses?—A. Perhaps Mr. Howe would care to answer your question.

Mr. HOWE: We pointed to the National War Services machinery and then it was pointed out that that was national, of course, and that the application was made here; and it was also pointed out that other things were dealt with by various provincial branches. I gather that we would have no definite

opinion. It might be done either way; I think that would be a matter of the mechanics of the legislation; but it would be most difficult if we were all dealing with it, and I think we would perhaps be stepping a little out of our position.

The PRESIDING CHAIRMAN: It might be done by provincial regulation?

Mr. HOWE: Yes, from the provinces.

Mr. KINES: Two things would have to be weighed off against one another; one is that with smaller games a larger number of permits are going to be issued, and therefore the bigger organization is going to be assumed to deal with it, and the necessary breaking down to smaller units; but on the other hand you would have the difficulty of uniformity.

The PRESIDING CHAIRMAN: You could get at it by requiring permits only where the prizes are in excess of a certain amount of money.

Mr. HOWE: \$100 for example might do it, or \$50. I think that is probably a practical suggestion, and that within a certain limit perhaps, or in a certain situation you might require to have a special permit.

Mrs. SHIPLEY: If the Act were clear and most of those controls that have been suggested under the War Services Act and otherwise were in the Act, and everything was as clear as could be, would you have any objection to the whole administration being done within municipal confines?

The WITNESS: I think the physical control would have to be exercised by local authorities, and that it would be difficult to do it otherwise. But what they need behind them is clear and concise legislation.

Mr. BROWN (*Essex West*): Have you a draft of any recommended section of the Act which would be on point?

The WITNESS: I am not prepared to make any specific recommendation as to the actual wording of the amended sections of the Act other than what we have already stated with regard to the War Services Act. We think that the Act could be amended and redrafted in a manner, or in such a way as to grant the type of control we have described.

Mr. BLAIR: The War Services Act does not mention lotteries at all.

The WITNESS: No.

The PRESIDING CHAIRMAN: I think that the War Services Act is to elaborate in its provisions for this sort of thing.

Mr. BLAIR: We have with us this morning Mr. Osmond Howe, Q.C., of Ottawa, who has acted in three rather prominent lottery cases before the Ontario Court of Appeal. One of them dealt with the use of the Ottawa Auditorium "occasionally" for the purpose of bingo; another one dealt with the advance sale of exhibition tickets off the fairgrounds; and the third one related to a contest conducted by a retail store which was charged as an offence under the lottery section. It occurred to me that perhaps Mr. Howe could outline what was involved in those three cases, and that it would help the committee to see the anomalies that have arisen in the present law.

Mr. HOWE: Well, with regard to these cases in the order mentioned, some time ago the question came up of the "occasional" bingo. I came into that case in two different respects. There were three charges lodged in Ottawa; one against the Kinsmen's Club; one against the Lions Club; and one against one of the branches of the Canadian Legion. I represented the Lions Club and the Canadian Legion and the question was that of the occasional bingo.

The point came to me: what does "occasional" mean, and after a lot of soul searching and brain racking and searching for authorities, I came to the same conclusion as the view expressed by one of the justices of the Ontario Court of Appeal, that "occasional" means "occasional"; *sporadic* rather than

general. So I said it means "one once in a while". That was the point on which the Court of Appeal's judgment turned. They proceeded only with the Kinsmen's appeal and the conviction was quashed so far as this was concerned, by the Ontario Court of Appeal. The cases were not proceeded with in the police court against the Legion and the Lions Club, because the Crown was waiting for the decision in the Kinsmen's Club case.

Mrs. SHIPLEY: Does the word "occasional" apply to the building or to the organization? Somebody said that it was applied to the building?

Mr. HOWE: It was applied in a case in Winnipeg a good many years ago where a building was used every night of the week and was rented to different organizations, but there was always a bingo there; and it was held by the Manitoba Court of Appeal in that case that this was not an occasional bingo, that "occasional" did refer to the premises, and that it was a regular thing. The conviction was sustained. Perhaps Mr. Blair might correct me if I am wrong; but I think that is what the holding was.

Then there was the case of the exhibition tickets. I acted for the Canadian Legion in one of the branches in Ottawa, the Montgomery branch. It had an arrangement with the Ottawa Exhibition whereby that branch of the Legion attended to the advance sale of exhibition tickets. We fell into a little different position. The agricultural fair had the right to conduct lotteries on its premises. The Legion had tickets for sale at various places, with banners on the streets and in offices and stores. One small store near the exhibition grounds acted as one of the agents. Some tickets were sold there, and the police walked in and grabbed all the tickets and laid a charge against the lady who ran the store. I was asked by the Legion to defend her in the police court proceedings. As happens in so many of these cases, some people have not the money to conduct an appeal. Police magistrates, because it is the popular thing or for some other reason, frequently convict in these cases where we know the thing is wide open. So in this case again there was a conviction. And then the Ottawa exhibition people stepped in and asked me to go to the court of appeal and we went to the court of appeal.

I do not recall the composition of the court, but I do remember that one of the learned justices of the Court of Appeal of Ontario questioned the Attorney General's counsel as to whether or not he took the position that an agricultural fair would be stopped from selling tickets at its up-town office or selling advance tickets where a lottery was advertised to take place on the grounds. That was a bit of a poser for him and the learned justice went on to say, "If the exhibition committee can do that—" and he indicated that he thought they could—"then why cannot their agents do the same?" In other words, these are tickets sold for a perfectly legal thing, that is, a draw or a lottery on the fairgrounds.

Mr. BROWN (*Essex West*): Was there any element of admission with that draw?

Mr. HOWE: Yes; there was a prize for it.

Mr. BROWN (*Essex West*): I mean was this a ticket of admission to the fairgrounds?

Mr. HOWE: Yes, it was a ticket of admission to the fairgrounds.

Hon. Mrs. HODGES: Just the same as in the British Columbia case.

Mr. HOWE: I was successful in the court of appeal and the conviction was quashed. It was a very strong court.

Mr. BLAIR: Is that decision reported?

Mr. HOWE: The case was that of *Rex v. Lily Komisarchuk*.

Mr. BLAIR: When did that case occur?

Mr. HOWE: I am not sure. There were reasons for judgment given and I had the reasons. They were written by Mr. Justice Roach, I believe.

The PRESIDING CHAIRMAN: It would be in the Weekly Notes at least.

Mr. HOWE: Yes, and if not it could be obtained through the registrar of the Ontario Court of Appeal.

Mr. FAIREY: About how long ago?

Mr. HOWE: Four years, if I remember correctly. Various points came up, but I remember that point particularly because of what happened here last week. I went before the exhibition directors at a meeting subsequent to that and I was asked for an opinion.

Hon. Mrs. HODGES: Subsequent to the trial?

Mr. HOWE: Subsequent to the appeal; and I gave them my opinion. They were perfectly free to go ahead and nobody could stop them unless they were breaking the law. So then police officers and magistrates have confused the law of morality with the criminal law and they are not always the same thing.

Hon. Mrs. HODGES: Very seldom.

The PRESIDING CHAIRMAN: Not where you apply private interpretation.

Mr. FAIREY: Did the exhibition association take your advice and continue to sell tickets in advance of the opening date?

Mr. HOWE: No, they did not. Some of the directors, by reason of their private views, were inclined to say no, because they had private views on these things. Again, it was a matter of morality rather than of law. That is the conclusion I came to after having heard the comments around the table.

Mr. BLAIR: Is the first decision to which you referred that of the Kinsmen Club case reported?

Mr. HOWE: I cannot tell you that. I am sorry. I can get that information along with the reasons if there were reasons given. The appeal court, very often, is a little diffident about giving reasons on the point because of confusion in the law.

And in regard to the third case which was mentioned by Mr. Blair, one of the big chain stores had its opening in Ottawa last fall.

The PRESIDING CHAIRMAN: Was it the Dominion stores or Loblaw's?

Mr. HOWE: It was the Dominion stores, and the manager was charged under section 236 (a). The charge recited the section. I think that the complaint itself did not include the elements of the offence; it merely recited the section or a part of the section. That was one of my points on appeal. There had been a conviction by the local magistrate. No charge whatsoever was made for the tickets in that case. Anybody could go into the store and get the benefit of these things and give the name of one of the Dominion stores choice brands of coffee. And in case he had any doubt, there were XXX signs all around that a certain branch of XXX coffee was a very, very good brand. And they would put all these things into a barrel; and then tissue paper was put on top of them and they were shaken up and then somebody would pull out the name. You did not have to make a purchase; and that person would be asked to answer another question.

The PRESIDING CHAIRMAN: That is where the skill came in.

Mr. FAIREY: How old are you?

Mr. HOWE: And then you see they would be asked to answer another question, one which it would be unlikely they would not be able to answer. That

was the matter of skill. Although there was a prize by making it a chance of skill it would take it out of that section, because section 236(a) was the chance section.

Then there was the question of consideration. There was no consideration; in my argument I referred to the judgment of Chief Justice Harvey of Alberta in the Hudson's Bay case, which was an obiter judgment. There you had to buy \$1 worth of goods in order to get a chance to get in on the draw. And the chief justice indicated, just in an obiter judgment, that consideration might not be necessary under section 236 (a), because it even includes the word "give"; so it might not be a lottery at all, just an advertising proposition.

I do not think parliament ever meant to go so far as to say that people might not have an advertising plan of this kind, and give some benefits away, such as an extra pound of tea, or something else that they might select. There must be consideration, chance and skill to constitute a lottery, it has been held time and again, both here and in England. The question of consideration might be missing; since in an English case a newspaper circulation increased over a certain period where people got a button or medal; they did not have to buy the paper or look at the paper before to see if they should be among the winners. But this thing is so intricate.

Mr. BROWN (*Essex West*): What happened in the Dominion store case?

Mr. HOWE: It was quashed. It was a very strong court. The Chief Justice of Ontario, Chief Justice Pickup, Mr. Justice Roach, and Mr. Justice Mackay were unanimous in quashing the conviction, but they did not decide the question of consideration. They did consider the question of chance and skill by following the Red River case, a case which went to the Supreme Court of Canada. But they decided that the advertising itself did not disclose an offence under section 236(a). In other words, the law was quite unsatisfactory and apparently they decided not to make a finding on the other points but to wait and see what this parliament did as a result of the findings of this committee.

Look at that subsection 5, having to do with foreign lotteries, the word "Lotteries" is not used in this section, in section 236(1); it is not used at all; and yet section 5, I think, indicates one of the dangers of adding to a section here and there, and says that foreign lotteries are included. So we have to take the position that perhaps a Canadian citizen or a Canadian contest may not be a lottery and yet is punishable. The situation is nothing short of absurd, and that is why we are here. I think I ought to add this that the Canadian Legion should be in no worse a position than an agricultural society.

Mr. BLAIR: Again for the record Mr. Howe, was this case reported?

Mr. HOWE: It has not as yet been reported. The chief justice presided and the view was taken that the material did not substantiate an offence under section 236(a) and I would add that the Ontario Court of Appeal gets through with its business rapidly, but we were started at 11.15 in the morning, and we did not finish until 3.30 in the afternoon.

Mr. MONTGOMERY: Mr. Chairman, may I ask one other question: In the exhibition case, was the drawing made from the tickets or from the stubs?

Mr. HOWE: From the stubs.

The PRESIDING CHAIRMAN: I think it would be from the tickets. The customer would keep the stubs.

Mr. HOWE: I think the customer is given the ticket and the stub remains in the hands of the vendors and I think it is the stub that went into the barrel.

Hon. Mrs. HODGES: Was it not the other way round?

Mr. HOWE: It was some years ago, and if you had the views of the people operating it a few days ago I do think their opinion would be better than my own.

The PRESIDING CHAIRMAN: It was the ticket that went in and the customer retained the stub to claim his prize.

Mr. HOWE: Yes, it would be the ticket.

Mr. BROWN (*Essex West*): And on the ticket the name and address of the person holding the stub was inscribed.

The PRESIDING CHAIRMAN: That seems to conclude our session this morning. The next meeting will be held on Thursday at 11 a.m. at which time we shall hear Professor Topping of United College, Winnipeg, on capital punishment with some reference to corporal punishment and lotteries.

